

TO: **Executive**
20 OCTOBER 2015

LOCAL ENFORCEMENT PLAN (PLANNING)
Director of Environment, Culture and Communities

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek the Executive's approval of the draft Local Enforcement Plan (for Planning Enforcement) attached as Annex A.

2 EXECUTIVE SUMMARY

- 2.1 The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) encourage local authorities to adopt a Local Enforcement Plan (Planning) (LEPPP). The purpose of which is to set out how the council, acting as the Local Planning Authority (LPA) will approach enforcement of the planning system in their administrative area particularly in how they will prioritise investigations and approach resolving breaches of planning control.
- 2.2 Attached is a copy of a new draft LEPP, which sets out what work the planning enforcement service will carry out, how that work will be logged and reported, what stages investigations will go through, along with proposed performance metrics.

3. RECOMMENDATION

3.1 That the Executive

- (i) **approves the Local Enforcement Plan (Planning) attached at Appendix A for use by the Local Planning Authority.**

4 REASONS FOR RECOMMENDATION

- 4.1 A Local Enforcement Plan clearly sets out the planning enforcement process in Bracknell Forest. This clearly sets out what the approach will be when breaches of planning enforcement are reported. It sets this out clearly for residents and complainants. The adoption of a LEPP also provides the LPA access to the Planning Enforcement Fund, which is a central government fund available to LPAs to assist with legal fees in pursuit of Injunctions from the County Court or High Court.
- 4.2 Enforcement is seen as a priority by the Council as such the LEPP sets out clear service processes and objectives with performance standards to monitor the service.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The Council does not have to produce a LEPP, however it is considered desirable to produce a clear statement of how the Council will deal with planning enforcement to provide greater transparency and better understanding of its role and operation. Producing a LEPP also makes certain funding options available to the LPA should it

wish to pursue Injunctions. It helps define the process and performance of the planning enforcement service undefined for other departments, Councillors and the general public. It helps the service to demonstrate that it is providing value for money, is dealing effectively with enforcement matters and is prioritising the most important cases.

6 SUPPORTING INFORMATION

- 6.1 Before the introduction of the NPPF, LPAs typically relied on the former national planning policy guidance (PPG18) to effectively set out how enforcement investigations would reasonably be carried out. Following the adoption of the NPPF by DCLG, PPG18 was withdrawn, and the emphasis of the NPPF is now for LPAs to adopt a LEPP that sets out how planning enforcement will reasonably work locally, rather than being prescribed at the national level.
- 6.2 The Council has a small planning enforcement team who deal with over 500 incoming cases a year. Since 1 June 2014, 589 cases have been opened and 628 cases have been closed. It is clear that with the resources available the Council needs to be clear on the process it will follow with regards to Enforcement and how it will prioritise cases. This will enable effective use of resources concentrating on the most urgent and important cases. This will provide clarity to residents on the service which is being provided and the timescales in which breaches will be investigated and what the process for resolving the breaches will be. Initial site visit targets are set for each priority level and normally the Council will expect to operate within these targets. There may be times when an unusually high number of Priority A cases require the urgent allocation of available resources. At such times, targets for other priorities may not be always be achievable.
- 6.3 Although the LEPP will be a publically available document, there is no statutory requirement or regulation requiring public consultation be undertaken in its preparation and it is not proposed to undertake formal consultation on it.
- 6.4 The Council currently has no formal planning enforcement policy, and no performance standards are set for the service to achieve. The LEPP will help formalise a more performance managed approach to Enforcement which can be reported back through the Quarterly Operations Report which is considered by the Environment Culture and Communities Overview and Scrutiny Panel.
- 6.5 As a public authority, the Council has a responsibility to deliver services with fairness, openness, and proportionality when considering interventions such as planning enforcement. This document sets out the approach we will take in relation to breaches of planning rules in Bracknell Forest. In dealing with enforcement we must take into account the key themes of the Council's Corporate Priorities.
- 6.6 Relevant Council policies are:
- Priority 2 - Protecting & Enhancing our Environment,
 - Priority 5 – Sustain Economic Prosperity, and
 - Priority 6 – Provide Value For Money,

Unrestricted

6.7 Nationally, the planning enforcement system is based on two important principles:

1. A breach of planning control is not a criminal offence, except for:
 - unauthorised works to listed buildings;
 - illegal advertisements (such as illuminated poster hoardings);
 - felling of protected trees; and.
 - demolition without consent.A criminal offence only arises when an Enforcement Notice has been served and has not been complied with.
2. It is at the Council's discretion whether action will be taken – and any action taken must be proportionate to the harm caused by the breach.

6.8 The enforcement service seeks to record and investigate all legitimately made reports of breaches of planning control. The LEPP sets out how the enforcement service can be accessed by members of the public, and the structured process by which investigations will be carried out in a fair and proportionate way. This will be delivered using an eight Phase investigation process, which sets out when people reporting breaches can expect to be updated on the progress of an investigation, and when the service will aim to have delivered particular results on an investigation.

6.9 The plan also explains how decisions are made, and describes the tools available to the Council for carrying out planning enforcement.

7. NEXT STEPS

7.1 The LEPP will be used to guide the LPA's response to breaches of planning control and will be published on the Council's website.

8. ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

8.1 Comments received from the Borough Solicitors officer have been incorporated into the LEPP.

Borough Treasurer

8.2 The cost involved in producing this Enforcement Plan can be met from within existing resources.

Equalities Impact Assessment

8.3 An Equalities Impact Assessment is attached at Appendix B

Strategic Management Issues

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8.4 None as a consequence of this report

Consultation

8.5 The preparation of the LEPP has been informed by technical evidence and consultation with a range of officers.

Overview and Scrutiny Working Group

8.6 The draft LEPP includes suggested changes made by the Overview and Scrutiny Working Group as part of their review of the Planning Service. All their recommendations have been included apart from their suggestion that the target for carrying out an initial site visit for priority B cases should be 5 days where practicable rather than 7. Officers consider that a solid measurable target would be more appropriate and that 7 working days is a suitable target commensurate with the available resources. It also compares well with other local planning authorities, some of whom have a 10 day target.

Background Papers

APPENDIX A Local Enforcement Plan (Planning)
APPENDIX B Initial Equalities Impact Assessment

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